

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michael Fiorito,

File No. 22-cv-486 (ECT/LIB)

Petitioner,

v.

ORDER

Warden Fikes,

Respondent.

Magistrate Judge Leo I. Brisbois issued a Report and Recommendation on March 16, 2022. ECF No. 40. No party has objected to that Report and Recommendation,¹ and it is therefore reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Report and Recommendation [ECF No. 3] is **ACCEPTED** and this action is **DISMISSED** without prejudice for lack of subject-matter jurisdiction.

2. Petitioner Michael Fiorito's Motion for Appointment of Counsel [ECF No. 4] is **DENIED** as moot.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 23, 2022

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court

¹ Fiorito's original deadline to object was March 30, 2022, but his time was extended until May 12. ECF No. 6.